



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 4, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0248

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional	Sustained
# 3	5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Training Referral)

Imposed Discipline

Written Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional	Sustained
# 3	5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Training Referral)

Imposed Discipline

Written Reprimand

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

An anonymous Complainant alleged that the Named Employees constructed firearms during work and that this made the Complainant feel “unsafe.” OPA alleged that, if true, this constituted a possible violation of law, was unprofessional, and may have constituted the use of position for personal gain.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy



OPA received an anonymous complaint, apparently from an employee of the Traffic Section. The Complainant alleged that the Named Employees, who are Parking Enforcement Officer (PEO) supervisors, were constructing firearms while on duty and in plain view of other SPD employees. The Complainant asserted that this made them feel “unsafe.”

As the Complainant was anonymous, they could not be interviewed by OPA. OPA did interview another PEO supervisor. She stated that Named Employee #2 (NE#2) would bring pieces of firearms into the PEO office. Some of the parts were in boxes and she was unaware whether NE#2 brought them from home or had them mailed to the PEO office. She said that NE#2 and Named Employee #1 (NE#1) would go into an office together and look at the pieces. She did not feel threatened by this because they did not actually have firearms in the office. She stated that they further did not have ammunition or magazines and, as such, the firearms were not actually functional.

OPA further interviewed NE#1 and NE#2. NE#1 told OPA that he and NE#2 built firearms as a hobby. He said that they would bring parts into the office, which they would store under their desks. He said that neither he nor NE#2 ever brought an actual firearm into the office, or, for that matter, ammunition. He stated that they would discuss the building process but never actually finalized a firearm within the office. NE#1 indicated that they would work on the parts at NE#2’s cubicle. He did not know if anyone saw what they were doing and heard no concerns until he was notified of this complaint. He said that the building and discussions with NE#2 would occur during a short period of time and as part of their break. NE#1 acknowledged that, regardless, it was a bad idea to engage in these activities in the workplace. He recognized that he would have instructed a PEO under his supervision not to do so and that his conduct set a poor example. However, NE#1 denied that he violated the law as he never had an actual functioning firearm in the workplace. He stated that he had a package of parts mailed to him at the office but that he did not think this was impermissible.

NE#2 also stated that he and NE#1 would look at firearm parts and discuss the building of firearms at his cubicle in the office. He said that this occurred during breaks. NE#2 told OPA that he would usually bring the parts from home but that, once, he had parts mailed to the office. He did not believe that this was improper. NE#2 said that they never actually constructed useable firearms in the office. NE#2 never heard any complaints about what he and NE#1 did. NE#2 did not necessarily view his actions as unprofessional. NE#2 denied that he violated the law or abused Department resources.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. City law prohibits the possession of a firearm in the workplace by non-sworn personnel. The question here is whether the Named Employees actually possessed a firearm as defined in the Seattle Municipal Code.

Ultimately OPA concludes that they did not. Both stated that they never actually built a firearm and did not bring ammunition to the office. This was corroborated by the female PEO supervisor interviewed by OPA. As such, even though this conduct was inadvisable and unprofessional (as discussed below), it did not violate the law.

OPA accordingly recommends that this allegation be Not Sustained – Unfounded as against both Named Employees.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional



SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.)

At his OPA interview, NE#1 recognized that he acted contrary to the Department’s professionalism policy; however, NE#2 did not appear to believe that this was the case. OPA ultimately agrees with NE#1 and finds that the Named Employees’ actions were unprofessional.

Even if their acts did not violate the law and could not be established to have occurred during paid time, they were inappropriate in the workplace. Indeed, as NE#1 explained, had a PEO under their supervision been constructing firearms at work, they would have been directed not to do so. Moreover, as supervisors, the expectations of the Named Employees’ conduct are high. They did not meet this standard here. While both NE#1 and NE#2 stated that they did not receive complaints, they should not have needed their subordinates to complain about their actions to have understood that constructing firearms at work was inappropriate.

For these reasons, OPA recommends that this allegation be Sustained as against both Named Employees.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain

SPD employees are prohibited from using their position or authority for personal gain. (SPD Policy 5.001-POL-13.) This allegation was classified because of the allegation that the Named Employees may have been building firearms during work hours and had packages mailed to them at work.

Both of the Named Employees denied building firearms during work hours and said that their discussions around the parts occurred during breaks. There was insufficient information in the record to contradict this. That being said, the Named Employees’ conduct certainly created the perception that they were doing so.

OPA also does not believe that it was contrary to policy for the Named Employees to have had a package mailed to a Department facility. It appears that it was an isolated incidence and doing so did not incur a cost to the City.

While OPA does not find that the Named Employees violated this policy, OPA believes that they would benefit from a discussion with their chain of command and a reminder that they be mindful of engaging in personal activities during work hours. As such, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** The Named Employees should be reminded that they are prohibited from engaging in personal activities during work hours, unless on a break. Their chain of command should specifically stress that, as supervisors, they are particularly expected to be cognizant of this requirement. This counseling and any associated retraining should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #2 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #2

5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #3

5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #3).

Recommended Finding: **Not Sustained (Training Referral)**